

THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

<p>STACY E. KINCH, Plaintiff, v. ZACHARY TODD, Defendant.</p>	<p>MEMORANDUM ORDER AND DECISION DISMISSING THE CASE WITHOUT PREJUDICE Case No. 4:24-cv-00012-DN-PK District Judge David Nuffer</p>
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Plaintiff's counsel filed a Motion to Withdraw as Counsel¹ on April 24, 2024. The Magistrate Judge granted the Motion on the same day and ordered Plaintiff or her new counsel to file a notice of appearance within 21 days of the order.² Neither Plaintiff nor new counsel filed a notice of appearance, so the Magistrate Judge entered an Order to Show Cause³ on July 15, 2024, that directed Plaintiff to show cause for her failure to file a notice of appearance. The Order to Show Cause warned Plaintiff that if she did not respond that her lawsuit may be dismissed.⁴ More than 30 days have elapsed since the Order to Show Cause was entered, and Plaintiff still has not responded to the Order to Show Cause or filed a Notice of Appearance as required by the Order Granting Motion to Withdraw.

“A judge may dismiss an action ‘[i]f the plaintiff fails to prosecute or to comply with [the Federal Rules of Civil Procedure] or a court order.’”⁵ “Generally, Rule 41(b) involuntary

¹ Motion to Withdraw as Counsel, docket no. 8, filed April 24, 2024.

² Order Granting Motion to Withdraw as Counsel, docket no. 9, filed April 25, 2024.

³ Order to Show Cause, docket no. 16, filed July 15, 2024.

4 *Id.*

⁵ *Black v. Larimer Cnty.*, 722 F. App'x 763, 766 (10th Cir. 2018) (quoting Fed. R. Civ. P. 41(b)).

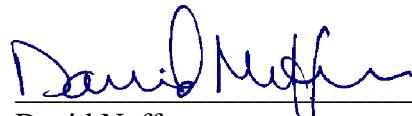
dismissals should be determined by reference to the *Ehrenhaus* criteria.”⁶ However, when the Court is dismissing a case without prejudice, consideration of those factors is not required, and the court may enter a Rule 41(b) dismissal order without prejudice “without attention to any particular procedure.”⁷

Plaintiff’s failure to prosecute her case and violation of two court orders warrants the dismissal of her case without prejudice. Also, Defendant filed a Motion to Dismiss⁸ on May 30, 2024, and Plaintiff has not responded to this Motion for more than 60 days.

THEREFORE, IT IS HEREBY ORDERED that Plaintiff’s lawsuit is DISMISSED WITHOUT PREJUDICE. The Clerk shall close this case and send a copy of this order to the email address on file for Plaintiff.

Signed August 21, 2024.

BY THE COURT



David Nuffer
United States District Judge

⁶ *Id.* at 767 (citing *Ehrenhaus v. Reynolds*, 965 F.2d 916, 921 (10th Cir. 1992)).

⁷ *Id.* at 767 (quoting *Nasious v. Two Unknown B.I.C.E. Agents, at Arapahoe Cty. Justice Ctr.*, 492 F.3d 1158, 1162 (10th Cir. 2007)).

⁸ Motion to Dismiss, [docket no. 15](#), filed May 30, 2024.